

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

JOHN R. DEMOS,

Plaintiff,

-v-

UNITED STATES OF AMERICA,

Defendant.

Case No. C-3:10-cv-116

Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

**ENTRY AND ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #6) IN ITS ENTIRETY;
OVERRULING DEMOS'S OBJECTIONS (Doc. #7) AND DISMISSING
DEMOS'S COMPLAINT WITHOUT PREJUDICE**

This matter comes before the Court pursuant to Magistrate Judge Michael R. Merz's Report and Recommendations (doc. #6) regarding pro se Plaintiff John R. Demos's Petition for a Writ of Habeas Corpus *Ad Testificandum*. The Court previously granted Demos's Application To Proceed *In Forma Pauperis*. The Magistrate Judge has now reviewed Demos's Petition pursuant to 28 U.S.C. § 1915(e)(2) and 1915A and recommends that it be dismissed without prejudice because Demos has not stated a claim upon which relief can be granted.

Demos has filed Objections to the Report and Recommendations and the Petition has not yet been served on the United States of America. This matter is, therefore, ripe for decision.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that the Magistrate Judge's Report and Recommendations is adopted in its entirety.

A writ of habeas corpus *ad testificandum* is a writ used in civil and criminal cases to bring a prisoner to court to testify. *Black's Law Dictionary* 715 (7th ed. 1999). In this case,

Demos is a prisoner who seeks a writ of habeas corpus *ad testificandum* so that he can testify before this Court and the United States Senate Intelligence Committee about various threats to national security, a purpose for which this writ was not intended nor provided for by law. Thus, Demos has not stated a claim upon which relief may be granted.

Therefore, Demos's Petition is DISMISSED WITHOUT PREJUDICE. Further, Demos's Objections to the Report and Recommendations are OVERRULED.

DONE and **ORDERED** in Dayton, Ohio, this Nineteenth Day of May, 2010.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
John R. Demos at his last address of record